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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/565,441	01/20/2006	Luca Maffei	2546-1014	9890
466 7590 11/18/2008 YOUNG & THOMPSON 209 Madison Street Suite 500 ALEXANDRIA, VA 22314			EXAMINER KAVANAUGH, JOHN T	
			ART UNIT 3728	PAPER NUMBER
			MAIL DATE 11/18/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/565,441

Applicant(s)

MAFFEIS ET AL.

Examiner

/Ted Kavanaugh/

Art Unit

3728

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 October 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 18-25 and 33-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 18-25 and 33-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S5108)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 18-22,25,33-38 are rejected under 35 U.S.C. 102(b) as being anticipated by GB 12,231 (Carmont).

Carmont teaches a stud for a rubber support for a tyre as claimed including a screw (B) having a body with a rounded profile (see figures 2-4 which show different shapes of the head of the stud with a rounded profile) and threads with a cutting edge (the edge of the thread is pointed and therefore is a cutting edge), both thread and cutting edge being oriented with the same inclination, said thread having a profile (see the profile of the thread in figures 1,5,6 and 7) with the first profile being substantially perpendicular to an axis of a conical core and a second profile having an obtuse angle between 95 to 110 degrees. The core of Carmont is conical shape inasmuch as it has a circular cross-section and a circular end. Conical is defined as having the form of, resembling or pertaining to a cone. A cone has a pointed end and a circular end and therefore the core of Carmont has a conical shape. Drawings and pictures can anticipate claims if they clearly show the structure which is claimed. In re Mraz, 455 F.2d 1069, 173 USPQ 25 (CCPA 1972). Clearly the threaded profiles of Carmont have a slightly

greater angle than 90 degrees and using a protractor and measure the slopes of the threaded profiles one would obtain an angle in the range as claimed. Both profiles of the thread of Carmont have a slight obtuse incline but nonetheless both satisfy the limitations as claimed (i.e. "substantially perpendicular to an axis of said core", claim 19 and "said obtuse angle is between 95 and 110 degrees", claim 22. **It is assumed applicant intended claims 22,36 and 37 to depend from claim 21 in order to give proper antecedent basis for the "obtuse angle".**

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 18-21,23-24,33-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 3124191 (Forslund) in view of official notice.

Forslund teaches a stud (screw) for a rubber support for a tire as claimed including a screw having threads (6), said thread having a profile (see the profile of the thread in figures 1 and 3) with the first profile being substantially perpendicular to an axis of a conical core and a second profile (i.e. thread profile facing the body of said core) having an obtuse angle and an free helical edge with a substantially flat longitudinal profile (see the flat outer edge best shown in

figure 3). Forslund lacks the thread having a cutting edge (claim 18) and the dimension of the flat longitudinal profile between 0.4 and 1.6 mm (claim 24). The examiner takes official notice that it is old and conventional in the art to provide the thread of the screw with a leading edge that is a sharp edge to facilitate cutting in the material the screw is being threaded into. Therefore, it would be obvious to provide the leading edge of the thread of Forslund with a sharpened edge (i.e. cutting edge) to facilitate threading. With respect to the dimensions of the flat longitudinal profile, it would appear the thread of Forslund is within the range as claimed but to the extent that it falls outside this range, it would be an obvious design choice to construct the flat profile with a size in the range as claimed inasmuch as a number of different sized appear to be suitable depending on the material the it is being threaded into.

Response to Arguments

5. Applicant's arguments filed 10-20-2008 have been fully considered but they are not persuasive.

Applicant argues that the core of Carmont is not substantially conical or frusto-conical.

In response, conical is defined as having the form of, resembling or pertaining to a cone. A cone has a pointed end and a circular end and therefore the core of Carmont has a conical shape. Moreover, even if applicant further limited the claim to distinguish conical as being sloped, it is conventional in the art for threaded pieces to have a flat

end as shown by Carmont or a pointed end (therefore would have a conical shape including a sloped surface).

Applicant argues "MPEP 2125 states "when the reference does not disclose that the drawings are to scale and is silent as to dimensions, arguments based on measurement of the drawing features are of little value". Therefore, Carmont fails to disclose the obtuse angle between 95 and 110 degrees.

In response, the section of the MPEP applicant is referring to, is under the heading "PROPORTIONS OF FEATURES IN A DRAWING.....". Therefore, this section of the MPEP is with respect to the proportions of the features shown in the drawings; see the case law cited in this section. What the examiner is relying on is the actual shape and slope of surfaces. Drawings and pictures can anticipate claims if they clearly show the structure which is claimed. In re Mratz, 455 F.2d 1069, 173 USPQ 25 (CCPA 1972). Clearly the threaded profiles of Carmont have a slightly greater angle than 90 degrees and using a protractor and measure the slopes of the threaded profiles one would obtain an angle in the range as claimed. Both profiles of the thread of Carmont have a slight obtuse incline but nonetheless both satisfy the limitations as claimed (i.e. "substantially perpendicular to an axis of said core", claim 19 and "said obtuse angle is between 95 and 110 degrees", claim 22. **It is assumed applicant intended claim 22 to depend from claim 21.**

Applicant argues that the stud of Forslund has a trapezoidal profile.

In response, the bottom of the screw as shown in figure 1 has a conical or frusto-conical core inasmuch as it has a circular cross section with a surface that slopes or tapers like a cone.

Regarding applicant's arguments with respect to claim 22 and the Forslund reference, such arguments are moot inasmuch as claim 22 was not rejected by Forslund.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. **Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F. R. 1.111, including:**

--"The reply must present arguments pointing out the *specific* distinctions believed to render the claims, including any newly presented claims, patentable over any applied references."

--"A general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section."

-Moreover, "The prompt development of a clear issue requires that the replies of the applicant meet the objections to and rejections of the claims. Applicant should also specifically point out the support for any amendments made to the disclosure. See MPEP 2163.06" MPEP 714.02. The "disclosure" includes the claims, the specification and the drawings.

8. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). Other useful information can be obtained at the PTO Home Page at www.uspto.gov.

In order to avoid potential delays, Technology Center 3700 is encouraging FAXing of responses to Office Actions directly into the Center at (571) 273-8300 (FORMAL FAXES ONLY). Please identify Examiner Ted Kavanaugh of Art Unit 3728 at the top of your cover sheet.

Any inquiry concerning the MERITS of this examination from the examiner should be directed to Ted Kavanaugh whose telephone number is (571) 272-4556. The examiner can normally be reached from 6AM - 4PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571) 272-4562.

If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (In United States OR CANADA) or 571-272-1000.

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/Ted Kavanaugh/
Primary Examiner
Art Unit 3728

TK

November 18, 2008